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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

TIM GALLI,

Plaintiff,

No. C 09-03775 JSW

v.

PITTSBURG UNIFIED SCHOOL DISTRICT,
BARBARA WILSON and PERCY MCGEE,

**ORDER REQUIRING
ADDITIONAL BRIEFING**

Defendants.

In the course of briefing the pending motions to dismiss, it appears that Plaintiff Tim Galli has changed his sworn testimony by seeking to file an amended declaration and amended briefing on important facts underlying the allegation that Plaintiff was denied due process under the Fourteenth Amendment. The Court shall not and cannot re-create the record, but, for the purposes of the pending motions, must address whether the true and accurate record contains issues of disputed material fact. Because of the state of the briefing and Plaintiff's attempt to change his testimony, the Court requires re-briefing of the due process issue.

The parties are required to re-brief the issue of whether judgment is appropriate in favor of Defendants on their motion for summary judgment on the alleged deprivation of Plaintiff's Fourteenth Amendment due process rights. Defendants shall move for summary judgment on the issue by no later than June 3, 2011 (in no more than 15 pages); Plaintiff shall oppose (in no more than 15 pages) by no later than June 17, 2011; and Defendants shall submit a reply (of no

1 more than 10 pages) by no later than June 24, 2011.¹ The parties shall submit admissible
2 documentary evidence of the important dates in conjunction with Defendants' re-briefed motion
3 on the due process allegations.

4 The parties do not have to re-brief issues related to Plaintiff's motion for summary
5 judgment and do not have to re-brief the portion of Defendants' motion for summary judgment
6 on the First Amendment allegations. The hearing date of May 20, 2011 is HEREBY
7 VACATED. The Court shall address all legal issues in one final order on the cross-motions for
8 summary judgment, once finally briefed.

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10 **IT IS SO ORDERED.**

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12 Dated: May 17, 2011


13 JEFFREY S. WHITE
14 UNITED STATES DISTRICT JUDGE

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27 ¹ For the most part, Defendants may resubmit their earlier moving papers with regard
28 to the due process allegations. Plaintiff should explain his change in testimony in his
opposition. Defendants shall have the full opportunity to respond in their reply. The Court
shall set a hearing date by further order, only if necessary.